

PLANNING COMMISSION REPORT



MEETING DATE: February 8, 2006

ITEM No. _____ GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT Skeptical Chemist - 26-UP-2005 & 27-UP-2005

REQUEST Request to approve conditional use permits to operate a bar and for live entertainment in an existing building located at 15688 N. Pima Road Suites C5, C6 and C7 with Highway Commercial District (C-3) zoning.

Key Items for Consideration:

- Approval of a conditional use permit to operate a bar
- Approval of a conditional use permit for live entertainment
- Proposed Stipulations on the use permit
- Proposed Security & Maintenance Plan
- Potential impacts on the surrounding properties
- Character of the neighborhood

Related Policies, References:

General Plan, Zoning Ordinance Sections 1.403 & 5.1503.

OWNER Westwood Financial Corp.
310-820-5443

APPLICANT CONTACT James Craig
TW Steves LLC
602-518-3344

LOCATION 15688 N. Pima Road

BACKGROUND

Zoning.

The site is zoned Highway Commercial (C-3). The C-3 zoning district allows for a range of commercial, retail, and office uses. The subject application is included in a larger shopping center with primarily retail and restaurant tenants.

General Plan.

The General Plan Land Use Element designates the property as Commercial. This category includes a variety of uses which provide goods and services to the people who live in, work in, or visit Scottsdale. Generally, these uses fall into the category of retail, office, restaurant, etc.

Context.

This property is located within a large shopping center, located on the



southwest corner of Frank Lloyd Wright Boulevard and the Loop 101 freeway. There is a frontage road between the freeway and the shopping center, and the subject business abuts that frontage road and an entrance drive to the shopping center. The nearest residential housing is on the east side of the Loop 101 freeway, to the east of 90th Street.

Adjacent Uses and Zoning:

- North Existing commercial storefronts and auto repair in the Highway Commercial (C-3) zone.
- South Existing retail and commercial businesses in the same shopping center in the Highway Commercial (C-3) zone
- East Loop 101 Freeway
- West Existing retail and commercial businesses in the same shopping center in the Highway Commercial (C-3) zone

**APPLICANT'S
PROPOSAL**

Goal/Purpose of Request.

Under the provisions of the zoning ordinance, there are six threshold criteria which define an establishment as a bar. If an establishment exhibits any one (1) of these six (6) criteria, the establishment is a bar. These criteria are as follows:

1. Service area is in excess of 15% of the Gross Floor Area
2. Kitchen is less than 15% of the Gross Floor Area
3. Age verification is requested for admittance
4. A cover charge is required for admittance
5. Less than forty percent of gross revenues are derived from the sale of prepared food
6. The business remains open and liquor sales continue but the full kitchen closes before 9 PM.

The subject property has had a restaurant in the tenant space since the shopping center opened. The applicant is proposing to open a new establishment and utilize a series 12 state liquor license (usually associated with restaurants) but have the freedom to charge a cover at the door and require age verification for admittance. The food to liquor sales would remain constant as a function of the applicant's state liquor license which requires them to retain a minimum 40% food / 60% alcohol ratio of gross sales. By virtue of the applicant wishing to operate in this manner, a use permit is required. Additionally, the business owner would like to operate with live entertainment, employing a small Irish pub band at the establishment. This use requires a use permit as well.

Development Information.

- Existing Use: Restaurant
- Parcel Size: 294,668 Square Feet for the shopping center (6.75 Acres)
- Building Height Allowed: 36 Feet
- Existing Building Height: 25 Feet
- Floor Area: 4932 Square Feet + 630 Square Foot patio

IMPACT ANALYSIS

Traffic.

Street traffic in the area is predominantly generated by retail, restaurant, and office users during the day, and by restaurant uses during the evening. The peak traffic flow for a bar / live entertainment use occurs in the evening, when the surrounding retail establishments are closed; which is also typical of a restaurant use. As such, there is a symbiotic relationship of the proposed bar/live entertainment use in terms of relative traffic, and no noticeable traffic impacts will be seen if the use were to be approved.

Parking.

The site is part of an overall shopping center, which underwent a parking analysis at the time it was built. Pursuant to a Zoning Administrator interpretation, any shopping center greater than 200,000 square feet of gross floor area shall have all uses treated similarly in the center, in terms of parking demand. As such, the analysis revolves around whether or not there is a skewed demand toward daytime vs. nighttime uses. As nighttime uses are very rare for this shopping center, there is no change in net parking demand for the overall center which would be attributable from this location changing from a restaurant use to a bar and /or live entertainment use at this time.

Water/Sewer.

The building is existing, and will not need any additional water or sewer facilities as a result of this request.

Police/Fire.

Adherence to the proposed Security and Maintenance plan will ensure proper safety for the patrons and surrounding environment. There have not been any calls for service at this location in the past 12 months.

Bar Use Permit Criteria.

Conditional use permits, which may be revocable, conditional, or valid for a specified time period, may be granted only when expressly permitted after the Planning Commission has made a recommendation and the City Council has found as follows:

*(NOTE: Criteria taken verbatim from City of Scottsdale Municipal Code and the Staff Analysis follows **in bold**. Some criteria are put together for analysis purposes, i.e. A1, A2, A3 below, etc. Staff has provided detailed analysis of the bar related impacts below in line item format.)*

- A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:
 1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
 2. Impact on surrounding areas resulting from an unusual volume or character of traffic.
 3. There are no other factors associated with this project that will be materially detrimental to the public.

Staff Analysis:

In general, the granting of this use permit will not negatively affect the public health, safety, and welfare as it conforms with the zoning, meets the minimum kitchen size and public service area threshold criteria, and any noise and light impacts associated with the granting of this use permit, in this location, will not negatively affect the surrounding area, by virtue of its substantial distance (1460 Feet) to the nearest sensitive land use (i.e. residential housing). Further, there are several restaurants in the shopping center currently.

- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.

Staff Analysis:

The characteristics of the proposed use, in this location, is compatible with the surrounding uses in so far that:

- **There are several other existing restaurants in the shopping center in close proximity.**
- **There has not been any demand for law enforcement in the past 12 months at the proposed location;**
- **The noise and light impacts associated with this use, at this location, generally conform to the types of uses allowed in the C-3 zoning category.**

- C. The additional conditions specified in Section 1.403, as applicable, have been satisfied.

[C.1] *Bars, cocktail lounges, and/or after hours establishments.*

1. The use shall not disrupt existing balance of daytime and nighttime uses.

Staff Analysis:

The majority of uses in this area are primarily daytime types of uses; being either retail, restaurant, or office. The nearest residential use is located on the opposite side of the freeway. As such, the approval of the use, in this location, will not negatively affect the balance of daytime and nighttime uses.

2. The use shall not disrupt pedestrian-oriented daytime activities.

Staff Analysis:

The existing structure will remain in place. No changes will be made which might affect the pedestrian nature of the area.

3. If the site is located within the downtown overlay district then:
- a. The use shall not encourage displacement of daytime retail uses unless it can be demonstrated that the proposed use shall promote diversity of first floor uses along the street.
 - b. The required parking for the use shall be within six hundred (600) feet of the property and shall not be separated from the property by a

major or minor arterial street.

Staff Analysis:

The site is not located within the Downtown Overlay district.

4. If the use is located within five hundred (500) feet of a residential use or district then:
 - a. The use shall not adversely impact residential uses.
 - b. The use shall provide methods of buffering residential uses.

Staff Analysis:

The use will not be located within 500 feet of any existing or proposed residential project.

5. An active management and security plan shall be created, approved, implemented, maintained, and enforced for the business.

Staff Analysis:

A draft Security and Maintenance Plan has been submitted and approved by the Police Department and is proposed as a stipulation of the case. It is included as Attachment #9.

6. The applicant shall provide, with the application for a conditional use permit, a written exterior refuse control plan which must be approved by the planning and development department staff as complying with the written guidelines of the department.

Staff Analysis:

A draft Security and Maintenance Plan has been submitted and proposed as a stipulation of the case. This plan includes the proposed handling of refuse.

7. The applicant shall demonstrate how noise and light generated by the use shall be mitigated.

Staff Analysis:

The application is for a change of use in a pre-existing structure. The issue of noise is addressed in the applicant's Security and Maintenance plan, which has been approved by the City's Police Department. The applicant is also currently requesting Development Review Board approval for an exterior façade change, which may or may not include some minor refinements in building up-lighting. However, there will not be any significant change in lighting for the site.

8. The applicant shall demonstrate that the use shall meet required parking and shall not exceed capacity for traffic in the area.

Staff Analysis:

The shopping center meets all of its parking demands. Staff has provided a parking analysis in the parking impact section listed above.

9. After hours establishments must maintain a valid after hours establishment

license.

Staff Analysis:

The applicant is requesting this permit as a portion of this request. The analysis is below.

Live Entertainment Use Permit Criteria.

Conditional use permits, which may be revocable, conditional, or valid for a specified time period, may be granted only when expressly permitted after the Planning Commission has made a recommendation and the City Council has found as follows:

*(NOTE: Criteria taken verbatim from City of Scottsdale Municipal Code and the Staff Analysis follows **in bold**. Some criteria are put together for analysis purposes, i.e. A1, A2, A3 below, etc. Staff has provided detailed analysis of the bar related impacts below in line item format.)*

- A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:
1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
 2. Impact on surrounding areas resulting from an unusual volume or character of traffic.
 3. There are no other factors associated with this project that will be materially detrimental to the public.

Staff Analysis:

In general, the granting of this use permit will not negatively affect the public health, safety, and welfare as it conforms with the zoning, meets the minimum kitchen size and public service area threshold criteria, and any noise and light impacts associated with the granting of this use permit, in this location, will not negatively affect the surrounding area, by virtue of its substantial distance to the nearest sensitive land use (i.e. residential housing). Further, there are several restaurants in the shopping center currently.

- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.

Staff Analysis:

The characteristics of the proposed use, in this location, is compatible with the surrounding uses in so far that:

- **There are several restaurants at the current location, which creates a symbiotic relationship between daytime and nighttime uses at the shopping center.**
- **This is the first live entertainment use in the center. However, pursuant to the above finding, the live entertainment at this location in the center will be symbiotic with the surrounding uses.**

- **There has not been any demand for law enforcement in the past 12 months at the proposed location;**
- **The noise and light impacts associated with this use, at this location, generally conform to the types of uses allowed in the C-3 zoning category.**

C. The additional conditions specified in Section 1.403, as applicable, have been satisfied.

J. Live Entertainment.

1. The site plan shall demonstrate that:
 - a. Buffering by a wall and/or landscaping will be provided in a manner which physically separates and restricts access from the establishment and its required parking area to residential districts.
 - b. All patron entrances will be well lit and clearly visible to patrons from the parking lot or a public street.

Staff Analysis:

The site is buffered by the Loop 101 freeway to east of the patio area, which will buffer the potential noise from this establishment and the impacts associated with this use, as it will be completely enclosed during periods of time in which live music will be performed. There will be no noticeable impact to any residential areas. The entrances to the establishment are well lit, with pre-existing lighting fixtures the shopping center employs currently.

2. The applicant has provided written evidence that all sound resulting from business activities will be contained within the building, except where external speakers are permitted.

Staff Analysis:

The floor plan indicates that all business activities resulting from the live entertainment being requested will be fully enclosed within the structure. External speakers are proposed for the patio, and staff has proposed a maximum noise level of 55 dba at the property line.

3. The applicant has provided a written public safety plan which the city police and fire departments have approved as complying with the written guidelines of the Planning and Development Department.

Staff Analysis:

A draft Security and Maintenance Plan has been submitted and approved by the Police Department and is proposed as a stipulation of the case. It is included as Attachment #9.

4. The applicant has provided a written lighting plan which addresses exterior lighting on and surrounding the property, in accordance with section 7.600 of the zoning ordinance and with the public safety plan guidelines.

Staff Analysis:

The existing lighting plan for the shopping center meets the provisions of this ordinance. Any subsequent changes to this plan would be required to meet the provisions of this ordinance.

5. The applicant shall provide a written exterior refuse control plan which must be approved by the Planning and Development Department staff as complying with the written guidelines of the department, prior to the issuance of a business license. The review will be conducted as provided in Section 1.305.

Staff Analysis:

A draft Security and Maintenance Plan has been submitted and approved by the Police Department and is proposed as a stipulation of the case. This includes a refuse plan. It is included as Attachment #9.

6. The applicant has provided a floor plan which identifies the areas for the primary use and for ancillary functions, which include but are not limited to patron dancing areas and/or stages for performances.

Staff Analysis:

The draft floor plan has been provided for review as Attachment #10.

7. If access to the establishment is from a street other than one classified by the General Plan as minor collector or greater, or classified by the downtown General Plan as local street or greater, the applicant has provided a traffic analysis which complies with transportation planning department written guidelines. The plan shall demonstrate to the satisfaction of the transportation department that the level of service on all streets accessed by the use shall meet the standard set by the city.

Staff Analysis:

This criteria is not applicable to this application. The entrance to the subject establishment is from the interior of the shopping center.

8. If the Zoning Administrator determines that a study is necessary the applicant shall provide a parking study which complies with the written guidelines of the Planning and Development Department.

Staff Analysis:

The Zoning Administrator has determined that the project meets the provisions of the zoning ordinance, and no additional parking study is required.

9. The applicant has provided any additional information required by city staff in order to evaluate the impacts of the proposed use upon the area.

Staff Analysis:

No additional information was required by City Staff for this application.

10. The following operational standards must be met by the use throughout its operation:
 - a. All external doors shall be closed but not locked during business

- hours.
- b. No external speakers will be permitted on the premises of a use permitted under this section, which is located within five hundred (500) feet of a residential district.
- c. The applicant/operator shall comply with all plans approved as provided herein.

Staff Analysis:

All of these issues have been stipulated to, and there is no residential district located within 500 feet of the proposed use. The closest residential housing is 1460 feet away from the subject establishment.

Community Involvement.

The applicant mailed out notices to property owners with 750 feet of the proposed use. Staff has not received any comment regarding the proposed application.

Community Impact.

In general, a bar and/or live entertainment use is judged in terms of the relative impacts on the surrounding neighborhood and its context in the district which it is proposed. The location of this proposed use, by virtue of being in a large shopping center, and abutting the Loop 101 freeway on one side, and being buffered by the remainder of the shopping center on all other sides, will not create any adverse community impacts. The applicant has submitted a Security and Maintenance plan approved by the Police Department and has agreed to the proposed conditions of approval.

STAFF
RECOMMENDATION

Recommended Approach:

Staff recommends approval, subject to the attached stipulations.

RESPONSIBLE
DEPT(S)

Planning and Development Services Department
Current Planning Services

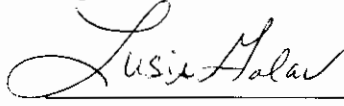
STAFF CONTACT(S)

Mac Cummins, AICP
Principal Planner
480-312-7059
E-mail: mcummins@ScottsdaleAZ.gov

APPROVED BY



Mac Cummins, AICP
Report Author



Lusia Galav, AICP
Current Planning Director

ATTACHMENTS

1. Applicant's Narrative
2. Context Aerial
- 2A. Aerial Close-Up
3. Land Use Map
4. Zoning Map
5. Stipulations
6. Citizen Involvement
7. City Notification Map
8. Proposed Security and Maintenance Plan
9. Site & Floor Plan



Project Narrative

This document will be uploaded to a Case Fact Sheet on the City's web site.

Date: 10-25-05

Project No.: 526 - PA - 2005

Coordinator: MAC CUMMINGS

Case No.: - -

Project Name: SKEPTICAL CHYMIST

Project Location: SKEPTICAL CHYMIST 15608 N PIMA STE 1269 127
SCOTTSDALE AZ 85260

Property Details:

☐ Single-Family Residential ☐ Multi-Family Residential ☒ Commercial ☐ Industrial

Current Zoning: C-3 Proposed Zoning: C-3

Number of Buildings: 1 Parcel Size: 1,198, 231 Sq FEET

Gross Floor Area/Total Units: 5000 Sq FEET/2 Floor Area Ratio/Density: 5000 Sq FEET

Parking Required: 200 1 for 25 Sq FEET Parking Provided: 200 1 for 25 Sq FEET

Setbacks: N - S - E - W -

Description of Request:

#1. SKEPTICAL CHYMIST IS REQUESTING FROM THE CITY OF SCOTTSDALE, A USE PERMIT FOR LIVE MUSIC. OUR TRADITIONAL IRISH PUB WOULD BENEFIT GREATLY BY PROVIDING AUTHENTIC MUSIC FROM IRELAND TO COMPLEMENT THE ENVIRONMENT WE WILL CREATE. THE PUBLIC AND PATRONS WILL ALSO BENEFIT BY BRINGING A BIT OF CULTURE, SIGHT, AND SOUND, TO SCOTTSDALE. THE ENVIRONMENT OF AN AUTHENTIC IRISH PUB RELIES HEAVILY ON MUSIC. WE ARE ASKING FOR PERMISSION TO HAVE MUSIC FROM 9:00 PM TO 1:00 AM. THE SURROUNDING BUSINESSES WILL NOT BE AFFECTED BECAUSE THE NOISE LEVELS WILL NOT BE INTRUSIVE AND THE BUSINESSES CLOSE AT EARLIER HOURS. WED. THRU SUNDAY 9 PM TO 100 AM., GENERAL LIGHTING WILL BE USED.

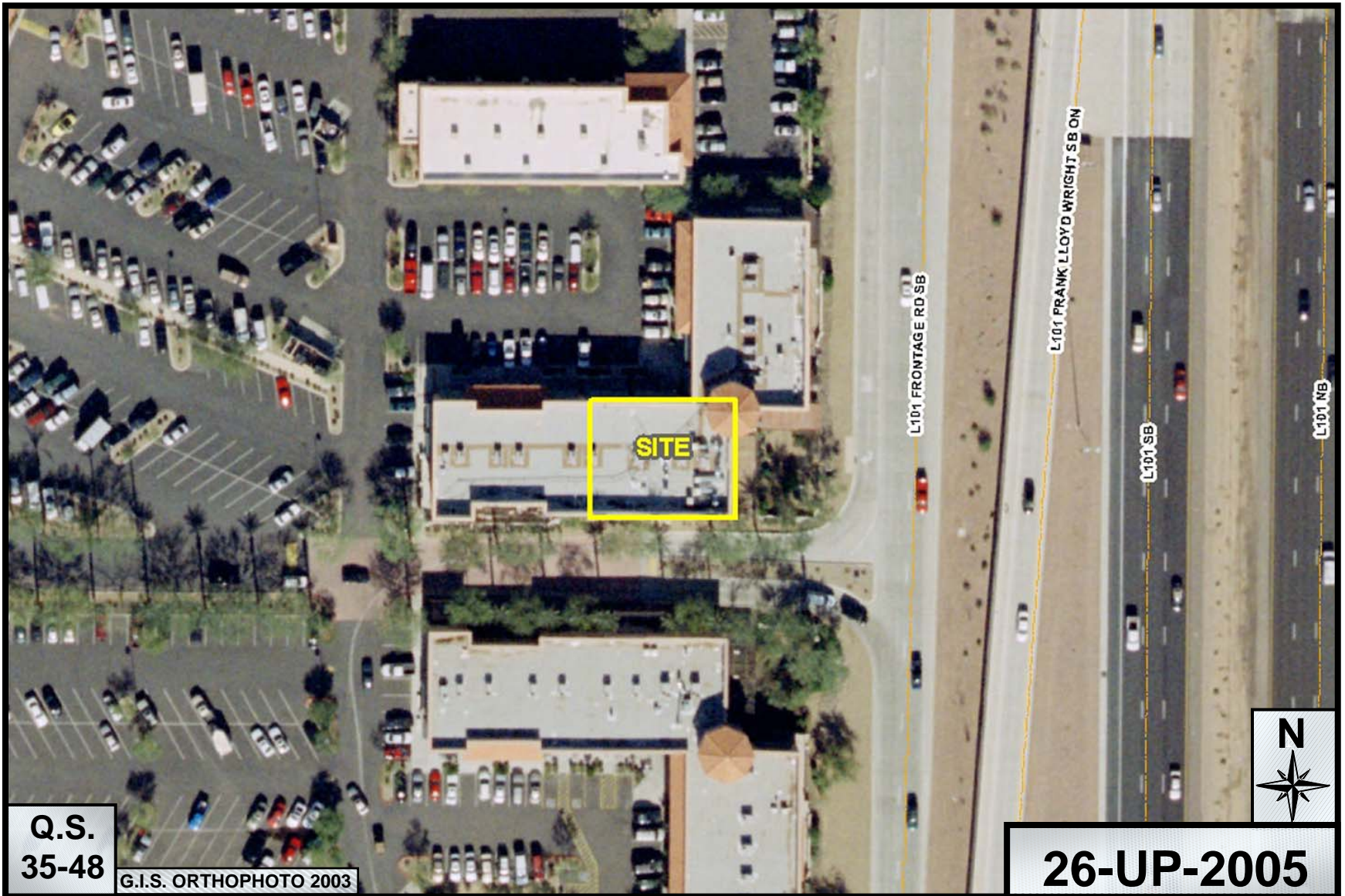
#2. SKEPTICAL CHYMIST IS ALSO REQUESTING FROM THE CITY OF SCOTTSDALE, A BAR USE PERMIT. WE ARE ASKING FOR THIS BAR USE PERMIT, TO ALLOW SKEPTICAL CHYMIST TO CHARGE A MINIMAL COVER CHARGE AND ID. PATRONS AT THE DOOR TO ENSURE THEY ARE 21 YEARS OF AGE AFTER 9:00 PM. THE COVER CHARGE IS A WAY FOR US TO BRING IN THE BEST IRISH BANDS TO PLAY MUSIC AND SUBSIDIZE THE COST OF THE ENTERTAINMENT. WE WILL ONLY CHARGE A COVER ON FRIDAY AND SATURDAY AFTER 9:00 PM.

Planning and Development Services Department

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • Phone: 480-312-7000 • Fax: 480-312-7088



Skeptical Chymist



Q.S.
35-48

G.I.S. ORTHOPHOTO 2003

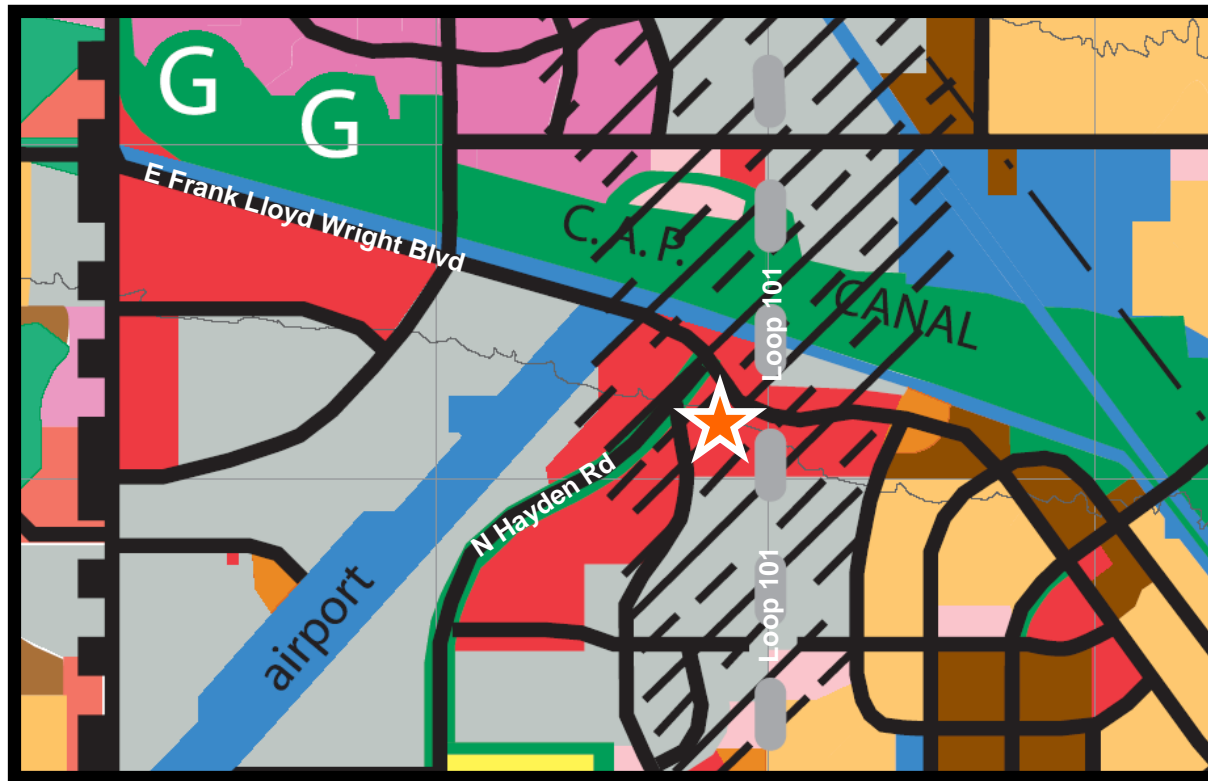
Skeptical Chymist

26-UP-2005

27-UP-2005

ATTACHMENT #2A

General Plan



26-UP-2005
27-UP-2005
 ATTACHMENT #3

Adopted by City Council October 30, 2001
 Ratified by Scottsdale voters March 12, 2002
 revised to show McDowell Sonoran Preserve as of May 2004
 revised to reflect General Plan amendments through June 2004

Zoning Map



CONDITIONS FOR CASES 26-UP-2005 & 27-UP-2005

PLANNING/ DEVELOPMENT

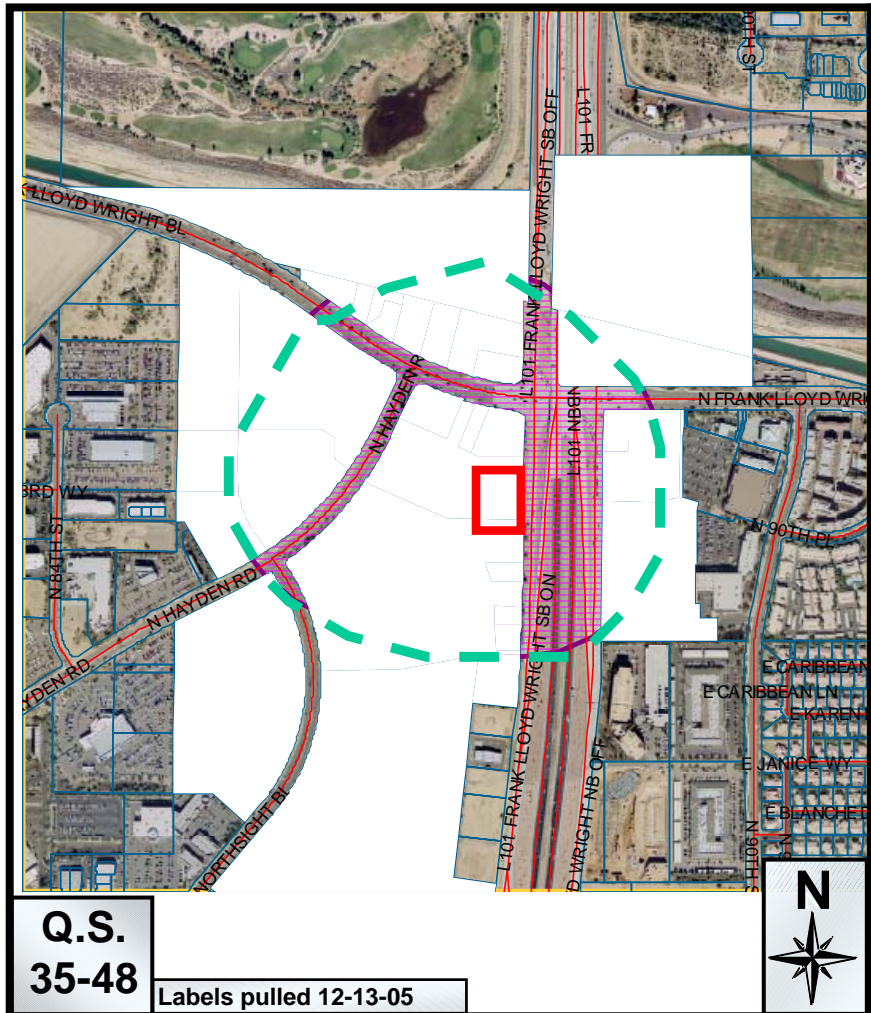
1. OPERATIONS: All operations shall comply with the following:
 - a. All amplified live music shall be wholly contained within the structure. No live music is permitted at any time on the outdoor patio. All external doors shall remain closed, but not locked, during operating hours.
 - b. No noise generated from the outdoor patio, including any music speakers, shall exceed a maximum of 55 dba at the property line.
 - c. There shall be no amplified music during the times that state law does not allow liquor sales at this bar.
 - d. The bar operator(s) / merchant(s) shall maintain and conform to a Public Security and Maintenance Plan approved by the Scottsdale Police Department, on record with the City of Scottsdale, and shall keep a copy of the approved plan on site at all times. Each year, at least ten days prior to the anniversary date of this use permit approval, the bar operator(s) / merchant(s) shall provide an update to the Public Security and Maintenance Plan to the Scottsdale Police Department and the Planning and Development Services Department. Such update shall state that the plan continues in effect as originally approved, or the update shall conform to the following: If there are any changes that modify the requirements or contents of the Public Security and Maintenance Plan, said changes shall be documented in a revised Public Security and Maintenance Plan, which shall be subject to approval by the Scottsdale Police Department and the Planning and Development Services Department.
 - e. The bar operator(s) / merchant(s) shall maintain and conform to a refuse and litter control plan approved by the City of Scottsdale Planning and Development Services Department, and any other applicable departments, and keep a copy on site at all times. The bar operator(s) / merchant(s) shall remove and dispose of litter and debris daily, to the satisfaction of City staff.
 - f. All alcoholic beverages sold in conjunction with the on-premise-licensed establishment must be consumed entirely on the premises prior to closing time. None shall be sold as take-out. Consumption of alcoholic beverages is prohibited in the establishment's parking area or any adjoining non-approved seating areas. The bar operator(s)/merchant(s) shall post and maintain signs both inside and outside the licensed premises indicating that law prohibits drinking outside the licensed premises, to the satisfaction of city staff.
2. ADMINISTRATION:
 - a. This Conditional Use Permit shall become null and void if the "bar" use is abandoned for more than one (1) year after beginning operation. If the use is abandoned beyond this one (1) year timeframe, a new Conditional Use Permit shall be required to operate a "bar" use at the subject property.
 - b. In addition to requirements for use permit amendments in the Scottsdale Revised Code, the bar operator(s)/ merchants shall apply for an amendment of this Conditional Use Permit when:
 - The establishment proposes to change its type of state liquor license.
 - The establishment proposes to modify any of its current Conditions of Approval.

- There is a substantial change in the mode or character of operations of the establishment.

Skeptical Chemist (26-UP-2005 & 27-UP-2005)
Citizen Involvement
Attachment #6

The above attachments are on file at the City of
Scottsdale Current Planning office,
7447 E Indian School Road, Suite 105.

City Notifications – Mailing List Selection Map



Map Legend:



Site Boundary



Properties within 750-feet

Additional Notifications:

- Interested Parties

Skeptical Chymist

26-UP-2005 & 27-UP-2005

ATTACHMENT #7

Skeptical Chemist (26-UP-2005 & 27-UP-2005)
Security and Maintenance Plan
Attachment #8

The above attachments are on file at the City of
Scottsdale Current Planning office,
7447 E Indian School Road, Suite 105.

